

S/N 10/697,788

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael J. BULLINGER	Examiner:	Phi Dieu Tran A
Serial No.:	10/697,788	Group Art Unit:	3637
Filed:	October 30, 2003	Docket No.:	10226.0010US11
Customer No.	23552	Confirmation No.	1146
Title:	GUTTER AND COVER SYSTEM		

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**COMMUNICATION REGARDING  
NON-COMPLIANT APPEAL BRIEF**

Mail Stop APPEAL BRIEF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief, Applicant submits new Sections III and V of the Appeal Brief. Applicant asserts that the new section III contains a statement of the status of the claims including cancelled claims. Moreover, the Summary of the Claimed Subject Matter now refers to independent claim 10. Applicant asserts that the Appeal Brief is now fully compliant. Applicant requests that the Appeal Brief be granted and that the claims be allowed.

If a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.

**23552**

PATENT TRADEMARK  
OFFICE

Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: 11/9/09

By: 

Gregory A. Sebald  
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### **III. STATUS OF CLAIMS**

Claims 1-7, 26 and 27 have been cancelled.

Claims 8-25, 28 and 29 are pending. Claims 8-25, 28 and 29 have been rejected and are the subject of the appeal. All pending claims are listed in the claims appendix that follows.

Claims 8, 10-11 and 13-21 stand rejected under 35 U.S.C. §102 (b) as being anticipated by Knudson, U.S. Patent No. 5,845,435.

Claim 10 stands rejected under 35 U.S.C. §103 (a) as being unpatentable over Knudson, U.S. Patent No. 5,845,435 in view of Middleby, U.S. Patent No. 4,263,756.

Claim 12 stands rejected under 35 U.S.C. §103 (a) as being unpatentable over Knudson, U.S. Patent No. 5,845,435 in view of Wade, U.S. Patent No. 5,729,931 and Richard, U.S. Patent No. 6,732,477.

Claims 9, 22, 24 and 28-29 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Knudson, U.S. Patent No. 5,845,435 in view of Manoogian Jr., U.S. Patent No. 5,072,551.

Claims 23 and 25 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Knudson, U.S. Patent No. 5,845,435 in view of Manoogian Jr., U.S. Patent No. 5,072,551.

## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

A summary of the claimed invention follows. The summary includes references to an embodiment disclosed in the specification.

Independent claim 8 is directed to a seamless gutter and cover system (110) shown in Figure 8. A gutter (124) formed from a first coil of material has a front face (119), a bottom (115), and a rear portion (117) extending upward to a top segment. A cover (122) is formed from a second coil of material. The cover extends over the gutter (124) and has a debris separation portion (112) extending above the front face of the gutter, and a lip portion (114) extending upward and wrapping over the top segment of the gutter (124). The lip portion (114) and the top segment of the gutter (124) are pressed together along their length to form an integral gutter and cover assembly (110). See page 7, line 16 through page 8, line 2.

Independent claim 10 is directed to a seamless gutter and cover system (110) shown in Figure 8. A gutter (124) is formed from a first coil of material having a front face (119), a bottom (115), and a rear portion (117) extending upward to a top segment. A cover (122) is formed from a second coil of material. The cover (122) extends over the gutter (124) and has a debris separation portion (112) extending above the front face of the gutter (124), and a lip portion (114) extending upward and wrapping over the top segment of the gutter (124). The top segment of the gutter (124) and a flange portion (114) of the cover (122) are continuously crimped together to interlock the top segment of the gutter (124) with the flange portion (114) of the cover (122) closed.

Independent claim 22 is directed to a seamless gutter and cover system (110) as shown in Figure 8. A gutter (124) has a front face (119) including a curving front portion (120) extending rearward and downward, a bottom (115), and a rear portion (117) extending upward to a top segment. An integral cover (122) extends over the gutter (124), having a curving front portion (125) extending downward and rearward above the front face of the gutter, a concave pooling

portion (118) intermediate the rear portion (117) of the gutter and the curving front portion of the cover (125). A lip portion (114) extends upward and wraps over the top segment of the gutter.

The lip portion (114) and the top segment (117) of the gutter are pressed together along their length to form an integral gutter and cover assembly (110). This is described at page 7, line 16 through page 8, line 2.